

UNITED STATES DISTRICT COURT

DISTRICT OF MARYLAND

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CHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE

APR 17 2000

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AT BALTIMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND

DEPUTY

April 17, 2000

Memo to Counsel Re: United States of America, ex rel. David Bennett v. Genetics & IVF Institute, Inc.
Civil No. JFM-95-1620

Dear Counsel:

I have reviewed the memoranda submitted in connection with defendant's motion for reasonable attorneys' fees and expenses.

The motion is denied. It is regrettable that plaintiff continued to pursue this action after the Addison deposition. However, although in my judgment that deposition finally undermined plaintiff's claims, non-frivolous issues remained to be decided after the deposition. It simply cannot be said that continued pursuit of the litigation (or the assertion of Counts II and III) was "clearly frivolous, clearly vexatious, or brought primarily for the purpose of harassment." 31 U.S.C. § 3730(d)(4).

Despite the informal nature of this ruling, it shall constitute an Order of Court, and the Clerk is directed to docket it accordingly.

Very truly yours,



J. Frederick Motz
United States District Judge

cc: Court File